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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re I.M. et al., Persons Coming
Under the Juvenile Court Law.

B302230

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No.
19LJJP00194ABC)

Plaintiff and Respondent,

v.

M.R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Steven E. Ipson, Judge Pro Tempore. Affirmed.

Robert McLaughlin, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Veronica Randazzo, Deputy County Counsel, for Plaintiff and Respondent.

M.R. (Mother) appeals a dependency jurisdiction order. The juvenile court sustained a petition alleging that Mother physically abused two of her three daughters and failed to protect them from E.T. (Father), who sexually abused the oldest child. (Welf. & Inst. Code, § 300.)¹ Father has not appealed the sexual abuse findings against him.

We conclude that the record supports the court's exercise of jurisdiction. The unchallenged findings against Father, standing alone, are a proper basis for dependency jurisdiction. (§ 300, subds. (b), (d), (j).) Substantial evidence supports the court's determination that Mother is an offending parent. She struck the children with objects and her hands, causing a nosebleed and bruising. (§ 300, subds. (a), (b), (j).) We affirm.

FACTS AND PROCEDURAL HISTORY

Mother's children are I.M. (born in 2007), A.M. (born in 2010) and C.T. (born in 2016). She married Father, who is C.T.'s parent, in 2015. Alex M., presumed parent of I.M. and A.M, was under a restraining order forbidding him from contacting Mother and his children; he was not named as an offending parent in the dependency petition.

In 2019, the Department of Children and Family Services (DCFS) received three referrals in one week regarding Mother's household. The referrals alleged physical and sexual abuse.

Mother told DCFS she disciplines her children using corporal punishment but denied leaving marks, cuts or bruises. She hits them with a plastic hanger, slaps them on the mouth when they curse or are disrespectful, and spanked A.M. on the

¹ Unlabeled statutory references in this opinion are to the Welfare and Institutions Code.

buttocks over clothing. Mother said the children steal money from her. She is trying to instill good values but recognizes that her disciplinary method is not the best; she is open to learning different methods.

I.M. said Mother imposes punishment using a sandal, a plastic hanger and sometimes a belt, without leaving marks or bruises. Being hit with a belt “doesn’t really hurt but it’s scary.” I.M. admitted to taking money Mother kept in a cookie jar.

A.M. admitted taking marshmallows in a store and taking Mother’s money. Mother struck A.M.’s buttocks with a hanger, leaving bruises. A.M. said Mother hits her with objects “a lot” and told sheriff’s deputies that Mother hits her on the legs, arms and face with metal and plastic hangers, belts, and sandals; Mother slapped A.M.’s face so hard that it caused a nosebleed. A.M. gets scared when Mother hits her.

The day after the initial investigation, A.M. reported at school that Mother hit her. Mother said that A.M. was “bringing up old stuff”; specifically, the two events from the previous week, when she hit A.M.’s face at the grocery store for eating unpaid-for marshmallows and threatened A.M. and I.M. with a sandal for taking money from her cookie jar.

Mother admitted to deputies that she hit A.M. in the mouth at the grocery store for stealing marshmallows but denied causing injury. Mother said she punishes the children by making them clean the home, or by spanking their bottoms or hitting them with a plastic hanger, without injuring them.

I.M. denied sexual abuse when speaking to the DCFS social worker. However, I.M. told deputies that four years earlier, when she was seven years old, Father came into her room, pushed her down on the bed and got on top of her. He began

“going up and down,” rubbing his body on hers for about one minute. They were both fully clothed. He abruptly stood up and left the bedroom.

The incident did not end there. I.M. entered the bathroom; as she walked out, Father hugged her and kissed her neck on both sides. He bit her neck, inflicting bruises. He said, “Don’t tell anyone, I could get in trouble.” I.M. told Mother what happened. Mother assured I.M. that she would protect her and told Father that he would be out of the family if it occurred again. I.M. told officers it was an isolated incident.

Officers questioned Mother about the sexual abuse. Mother said she left the children with Father, who called to ask when she would be home. When Mother arrived home, I.M. told her that Father pushed her down, got on top of her, and kissed her neck. Mother did not see bruises on I.M. Mother confronted Father. He apologized and said it would not occur again, explaining that he had been drinking and made a mistake. Mother told him that drinking was not an excuse and he needs to keep a distance from her daughters.

Mother did not contact police about Father’s conduct when it occurred in 2015. She felt “overwhelmed with being pregnant” with C.T. She takes precautions and asks her daughters if there have been any other incidents involving Father.

Upon seeing the deputies’ report, DCFS re-interviewed I.M., who claimed she told a lie. The case worker told I.M. that Father must have made her uncomfortable if she reported the incident to Mother. I.M. said she gave Father a hug and he kissed her neck. She did not like where she was kissed. I.M. denied that Father “went to her room and grinded on her over the clothes.” I.M. spoke to deputies a second time, denying that

Father ground himself against her; rather, he made her uncomfortable by kissing her neck.

DCFS re-interviewed Mother to ask why she did not disclose Father's sexual abuse to the case worker. Mother said "it did not cross her mind." Mother denied that I.M. accused Father of rubbing against her, only that he kissed her neck. Mother told DCFS that she ended her relationship with Father after the incident, then reunited with him after the birth of C.T. Mother placed locks on the children's bedrooms to prevent anyone from entering at night and does not allow Father to stay alone with the children. She has lost trust in Father but stays with him because they share a child. She often checks with the children about Father's behavior and there has not been another incident.

Father denied using corporal punishment. He leaves discipline up to Mother, because he is mostly out of town working. He recalled the incident in which I.M. gave him a hug and his kiss landed on her neck. He did not intend to make her feel uncomfortable. She told Mother, who confronted him. He denied misconduct, but she did not trust him and made him leave the home. He is back in the home and things are different: He is never alone with the children and other relatives or a neighbor watch the kids when Mother leaves for errands.

On March 20, 2019, a petition was filed alleging that Mother physically abused A.M. and I.M. by striking them with hangers, sandals, belts, and her hands. This caused unreasonable pain and suffering and placed the children at risk of harm; further, Father sexually abused I.M. by simulating sexual intercourse and kissing and biting her neck. Mother knew of the abuse and failed to protect the children from him.

The court found a prima facie case for detaining the children, released them to Mother's care under DCFS supervision, and forbade corporal punishment. It declared Father to be C.T.'s presumed parent. Mother enrolled in parenting and anger management programs.

In interviews for the jurisdiction hearing report, Mother stated that I.M. and A.M. have behavioral issues. They are defiant, refuse to do chores, and often steal from Mother. Mother has used a hanger and a sandal to discipline the girls but stopped doing so when this case began. Maternal relatives denied that Mother imposes physical discipline, other than a spanking, and describe her as a dedicated parent. The relatives observed that the children are close to Father and call him "dad." They were unaware of any sexual abuse by him.

I.M. stated that Mother disciplines her with a hanger and sandal on her hands and buttocks but does not inflict marks or bruises, only redness. She struck I.M. and A.M. with a hanger on three occasions and hits them on the mouth with an open hand if they say something bad. Mother has physically disciplined the children throughout their lives.

When asked about Father's sexual misconduct, I.M. said, "I lied about that. He has never touched me." She explained that she was being bullied in school at the time and wanted to act like a bully herself. Father kissed her neck, which "didn't feel right." She told Mother only that Father kissed her neck and did not tell Mother he did anything else to her. I.M. has a good relationship with Father, misses him, and wishes to see him.

A.M. stated that she "would get hit" with Mother's hand, sandals, and hangers "mostly on my butt and sometimes on my face" if she misbehaved. Physical punishment stopped when

DCFS became involved. A.M. denied that Father ever touched her private parts. She feels safe with him, misses him, and wishes to see him.

Mother acknowledged that I.M. told her Father went “up and down” on top of her and kissed her neck; however, I.M. soon recanted, apologized, and said she did not know why she lied. Father denied any impropriety but moved out for two weeks. Mother has no concerns about Father yet remains vigilant. She never leaves the girls alone with him, installed locks on their rooms, and instructs them to keep their bedroom doors locked at night. Mother did not tell deputies that I.M. recanted because she did not want to appear as if she thinks her daughter is a liar. Mother relies on Father to pay family expenses.

C.T. was evaluated and found to have developmental delays. A.M. was found to have a history of behavioral problems. All three minors were referred for further services. DCFS found they face a moderate risk of future abuse given C.T.’s tender age, inappropriate physical discipline in the home, the children’s behaviors, and the referral history in which I.M. recanted allegations of sexual abuse.

In an addendum in June 2019, Father denied rubbing against I.M. He said he responded to her hugs by kissing her jawline. Mother asked him to move out, but later said that I.M. had misinterpreted the kiss. Father thought Mother was bothered by I.M.’s complaint, even if the kiss was just a casual greeting. Father never heard about I.M.’s complaint that he rubbed against her until this case began. By July 2019, Mother was halfway through parenting and anger management programs, where she was an active and enthusiastic participant. Both parents regularly attended counseling sessions.

The petition was adjudicated in August 2019. A sheriff's detective testified that I.M. recanted her accusation that Father engaged in sexualized conduct. I.M. said she lied because she was upset that Mother paid more attention to the two younger children. I.M. told the detective that Father kissed her cheek; it was a lie that he kissed her neck.

Father spoke to the detective and denied doing anything wrong. He considers I.M. and A.M. to be his own daughters. The detective closed the sexual abuse case against Father after I.M. recanted and closed the physical abuse case against Mother because her actions toward the children were disciplinary. Mother agreed not to use hard objects to punish the children.

Mother testified that she punishes the children with time-outs or by sending them to their room. She disciplined them with a sandal, and once used a hanger, but has stopped. She denied striking A.M. and causing a nosebleed. She believed I.M.'s claim that Father touched her inappropriately and told Father to leave the home. A few days later, I.M. recanted and Father returned home. Since then, Mother always keeps her daughters with her and put a lock on their bedroom. Father is not allowed to be alone with them.

I.M. told Mother she lied because she was being bullied at school. I.M. said she gave Father a hug; he went to kiss her cheek but the kiss landed on her neck because she moved. Mother claims this is the only time she ever left her children alone with Father. She was satisfied that I.M. lied and allowed Father to move back in the home. Mother observed that the children "lie about a lot of stuff, serious stuff" and have taken money and used her credit card. The incident with Father was the only time a child lied about sexual abuse.

Mother said Father denied sexual misbehavior. He apologized for kissing I.M. on the neck. She did not recall that he said he was drinking and it was a mistake. She told him to keep his distance from the girls. Mother is not sure who to believe. Mother has attended parenting and anger management classes since DCFS opened this case. She has learned new ways of communicating with her children and no longer physically disciplines them.

Father testified that he was at home with A.M. and I.M. on the day of the incident, working on his truck. When he walked into the house to get a tool, I.M. gave him a hug. He kissed her on the jawline. She did not say anything about it. Mother confronted him. He apologized but said what I.M. was saying is not true because he was not alone with her. Father affirmed in court that I.M. was lying because he never climbed on top of her. He has not been alone with I.M. since then. He is taking parenting classes that discuss how to touch children appropriately. He still kisses the girls, like a father.

The social worker (CSW) testified that A.M. and I.M. speak highly of Father. I.M. admitted to lying about Father. CSW does not believe that the children were coached to change their story. CSW said that children recant because they are attached to the abusive parent, are pressured to recant, or are worried about the dependency case. Further, children may act out when they are abused or blame themselves. I.M. feels at fault that Father must live apart from the family during the DCFS proceeding. CSW is concerned that Mother does not believe I.M.; however, Mother is taking classes to learn to communicate with I.M.

Father told CSW that he loves the children and if he did anything to make them uncomfortable, he is willing to take

parenting classes and participate in counseling to learn a different parenting approach. The children are excited to see Father during monitored visits and are sad when visits end.

Counsel for Mother and Father asked the court to dismiss the petition for lack of evidence. They argued that I.M. recanted her claim of sexual abuse and Mother does not pose a current risk of harm because she stopped using physical discipline and takes measures to protect her children. Although I.M. wanted the petition to be dismissed, her attorney asked for the petition to be sustained in its entirety because Mother was not forthcoming about the extent of her physical abuse and the family's statements about sexual abuse are inconsistent. Counsel for A.M. and C.T. asked the court to sustain the sexual abuse and failure to protect counts but not the allegations of serious physical harm by Mother.

The Court's Rulings

The court sustained the petition. It found that Mother physically abused A.M. and I.M. She inflicted serious harm by striking A.M.'s face, causing a nosebleed, and hit the children with hangers, sandals, belts, and her hand, which was excessive. (§ 300, subds. (a), (b), (j).) It found that I.M. disclosed sexual abuse to Mother. Mother confronted Father about rubbing his body on I.M.; he admitted it, said he was drinking, and he made a mistake. At trial, neither parent admitted anything happened, though sexual abuse was "abundantly clear to the court." (§ 300, subds. (b), (d), (j).)

At disposition in November 2019, the court declared the children dependents of the court and found a substantial danger if they are returned to Father's care and custody. The court released them to Mother but forbade corporal punishment.

Mother had completed anger management and parenting programs; Father completed a parenting program.

The court's case plan requires Mother to participate in family preservation services and attend counseling to address child discipline, protective parenting, anger management, sexual abuse awareness, and case issues. Father must participate in sexual abuse counseling for perpetrators.

DISCUSSION

Mother contests the sufficiency of the evidence supporting the court's exercise of dependency jurisdiction. On appeal, we must uphold jurisdictional findings if they are supported by substantial evidence, based on a review of the entire record, resolving all conflicts in favor of the respondent and drawing all reasonable inferences in support of the judgment. (*In re R.T.* (2017) 3 Cal.5th 622, 633; *In re Israel T.* (2018) 30 Cal.App.5th 47, 51.) The court's determination will not be disturbed unless it exceeds the bounds of reason. (*In re Francisco D.* (2014) 230 Cal.App.4th 73, 80.)

There is an uncontested basis for dependency jurisdiction in this case. "Because the juvenile court assumes jurisdiction of the child, not the parents, jurisdiction may exist based on the conduct of one parent only." (*In re J.C.* (2014) 233 Cal.App.4th 1, 3.) The court assumed jurisdiction based on the conduct of both Mother and Father. Father did not appeal the sustained findings; his conduct alone justifies dependency jurisdiction. We may decline to address the evidence supporting the jurisdictional findings against Mother. (*Id.* at p. 4.)

Mother concedes that the sustained petition against Father establishes a sound basis for dependency jurisdiction but asks us to exercise our discretion and reach the merits of her claims. She argues that the findings against her could prejudicially impact

future dependency or family law proceedings. (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762–763.)

If we exercise discretion to examine findings against Mother, we need not review all of them. “ [A] reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.’ ” (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

Jurisdiction lies if “the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child’s parent or guardian.” (§ 300, subd. (a).) The court may find a risk of future injury “based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child’s siblings, or a combination of these and other actions by the parent.” (*Ibid.*)

Mother asserts that her conduct “fell within the parameters of ‘parental privilege.’ ” Courts determine if parental conduct was genuinely disciplinary, and whether the punishment was warranted by the circumstances and reasonable or excessive. (*In re D.M.* (2015) 242 Cal.App.4th 634, 641 [permissible use of a sandal or a hand to spank children on the buttocks, on rare occasions, without leaving bruises or marks].) A “single occasion” of disciplining a child with an object may not support jurisdiction. (*In re A.E.* (2014) 228 Cal.App.4th 820, 822.)

Mother administered far more than “reasonable and age-appropriate spanking to the buttocks [without] evidence of serious physical injury.” (§ 300, subd. (a); *In re Joel H.* (1993)

19 Cal.App.4th 1185, 1201–1202 [spanking buttocks with a hand].) She admitted hitting the children with objects and striking their faces, behavior that continued until DCFS and deputies investigated her conduct.

The children said she disciplined them “a lot” throughout their lives using objects, including hangers, belts, and sandals, or with her hand. Mother admitted to police that she struck A.M. in the face; the trial court believed A.M.’s statement that the blow was so hard that it caused a nosebleed. A.M. also stated that Mother’s beatings with a hanger caused bruises. The court could reasonably find that Mother “crossed the line over into abuse.” (*In re Jasmine G.* (2000) 82 Cal.App.4th 282, 291.)

The court disbelieved Mother’s claim she never injured the children and seldom imposed physical discipline. (*In re E.B.* (2010) 184 Cal.App.4th 568, 578 [the trial court assesses witness credibility and weighs conflicting evidence].) A.M. and I.M. both told DCFS that Mother’s violence scares them. A.M. voiced concerns about Mother at school, which generated a mandated report to DCFS. Her public airing of her fears could be reasonably construed as a plea for help. The court need not wait until a child is seriously abused or injured to assume jurisdiction and take protective steps. (*In re I.J., supra*, 56 Cal.4th at p. 773.)

Mother argues that she mended her ways before the jurisdiction hearing so there is no evidence of a current risk of harm. However, the court may find a risk of future injury based “a history of repeated inflictions of injuries on the child or the child’s siblings.” (§ 300, subd. (a).) The court may consider past abusive conduct. (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1434–1435; *In re Jasmon O.* (1994) 8 Cal.4th 398, 424 [parents’ potential is revealed by their past behavior with the child].)

The court focused on Mother's history of responding violently to her daughters' behavior. Her conduct was not an anomaly; it happened "a lot" and the provocations could be minor. I.M. recounted that Mother hit her for slamming a door. The court could find that this was an excessive response to trivial behavior. Relying on CSW's testimony, the court could infer that the children act out because they are abused, and any later minimization of parental abuse occurred because they feel guilty about breaking up the family or DCFS involvement.

Mother did not demonstrate candor. She testified that she used a hanger only once and never inflicted injury, though earlier statements suggest more frequent use of a hanger to hit the children.² The court could reasonably find that her repeated use of objects to hit two children places C.T. at substantial risk of nonaccidental future harm. A child need "not have been actually harmed in order for the court to assume jurisdiction." (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598.) Mother's failure to acknowledge past abuse may indicate unwillingness to change for the better, or lack of insight or remorse. It justified dependency jurisdiction, even if the court gave Mother the benefit of the doubt and left the children in her care under DCFS supervision.

² Mother displayed a similar lack of candor about Father's misconduct. She told police that I.M. disclosed his sexual abuse in detail right after it happened; Father admitted to it when Mother confronted him. Later, Mother claimed that I.M. never disclosed that Father rubbed against her and insisted that I.M. lied about the abuse, yet she installed locks on the girls' rooms and never left them alone with Father. The trial court did not credit Mother's efforts to deny or minimize Father's misconduct.

The family's history indicates that it can benefit from services to stop physical abuse by Mother and sexual abuse by Father.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

LUI, P. J.

We concur:

ASHMANN-GERST, J.

CHAVEZ, J.